
SENATE BILL No. 63

DIGEST OF INTRODUCED BILL

Citations Affected: IC 12-7-2; IC 12-17.2; IC 31-33-17-6.

Synopsis: Minimum standards for child care. Defines and amends the use of certain terms for purposes of the law concerning the federal child care and development fund voucher program (CCDF). Extends the expiration date of the board for coordination of child care regulation to November 1, 2005. Specifies individuals included in certain voucher program requirements. Specifies certain minimum requirements for CCDF participation by child care providers. Requires continual supervision by a caregiver of a child in the care of a CCDF provider, a child care home, or a child care center. Makes conforming amendments. Repeals the definition of the unused term "voucher agent". (The introduced version of this bill was prepared by the board for the coordination of child care regulation.)

Effective: July 1, 2003.

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January 7, 2003, read first time and referred to Committee on Health and Provider Services.

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First Regular Session 113th General Assembly (2003)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2002 Regular or Special Session of the General Assembly.

SENATE BILL No. 63

A BILL FOR AN ACT to amend the Indiana Code concerning human services.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 12-7-2-24.6 IS ADDED TO THE INDIANA CODE
- 2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
- 3 1, 2003]: **Sec. 24.6. "Caregiver", for purposes of IC 12-17.2, means**
- 4 **an individual who is assigned by a provider the responsibility for**
- 5 **supervising a specific child in the care of the provider.**
- 6 SECTION 2. IC 12-7-2-28.9 IS ADDED TO THE INDIANA CODE
- 7 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
- 8 1, 2003]: **Sec. 28.9. "Child care program", for purposes of**
- 9 **IC 12-17.2-3.5, has the meaning set forth in IC 12-17.2-3.5-1.2.**
- 10 SECTION 3. IC 12-7-2-76.8 IS ADDED TO THE INDIANA CODE
- 11 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
- 12 1, 2003]: **Sec. 76.8. "Employed", "employee", "employment", or**
- 13 **"employs", for purposes of IC 12-17.2-3.5, has the meaning set**
- 14 **forth in IC 12-17.2-3.5-1.3.**
- 15 SECTION 4. IC 12-7-2-149, AS AMENDED BY P.L.283-2001,
- 16 SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 17 JULY 1, 2003]: **Sec. 149. "Provider" means the following:**



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(1) For purposes of IC 12-10-7, the meaning set forth in IC 12-10-7-3.

(2) For purposes of the following statutes, an individual, a partnership, a corporation, or a governmental entity that is enrolled in the Medicaid program under rules adopted under IC 4-22-2 by the office of Medicaid policy and planning:

(A) IC 12-14-1 through IC 12-14-9.5.

(B) IC 12-15, except IC 12-15-32, IC 12-15-33, and IC 12-15-34.

(C) IC 12-17-10.

(D) IC 12-17-11.

(E) IC 12-17.6.

(F) IC 12-17.7.

(3) For purposes of IC 12-17-9, the meaning set forth in IC 12-17-9-2.

(4) **Except as provided in subdivision (5)**, for the purposes of IC 12-17.2, a person who operates a child care center or child care home under IC 12-17.2.

(5) For purposes of IC 12-17.2-3.5, a person that:

(A) provides child care; and

(B) is directly paid for the provision of the child care under the federal Child Care and Development Fund voucher program administered under 45 CFR 98 and 45 CFR 99.

The term does not include an individual who provides services to a person described in clauses (A) and (B), regardless of whether the individual receives compensation.

(6) For purposes of IC 12-17.4, a person who operates a child caring institution, foster family home, group home, or child placing agency under IC 12-17.4.

SECTION 5. IC 12-7-2-199.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 199.2. "Volunteer" or "volunteers", for purposes of IC 12-17.2-3.5, has the meaning set forth in IC 12-17.2-3.5-1.7.**

SECTION 6. IC 12-17.2-3.1-2, AS AMENDED BY P.L.96-2001, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. The terms of the members expire November 1, ~~2004~~ **2005**.

SECTION 7. IC 12-17.2-3.1-12, AS AMENDED BY P.L.96-2001, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 12. This chapter expires November 1, ~~2004~~ **2005**.

SECTION 8. IC 12-17.2-3.5-1, AS ADDED BY P.L.247-2001,

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SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. **(a)** This chapter applies to all child care providers regardless of whether a provider is required to be licensed or registered under this article.

(b) If a school age child care program that is:

(1) described in IC 12-17.2-2-8(10); and

(2) located in a school building;

is determined to be in compliance with a requirement of this chapter by another state regulatory authority, the school age child care program is considered to be in compliance with the requirement under this chapter.

SECTION 9. IC 12-17.2-3.5-1.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 1.2. As used in this chapter, "child care program" refers to the activities provided for children during the time that children are in the care of a provider.**

SECTION 10. IC 12-17.2-3.5-1.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 1.3. As used in this chapter, "employed", "employee", "employment", or "employs" refers to services performed by an individual for compensation. The terms do not refer to services performed by an individual who volunteers, including an individual who provides assistance and receives an allowance, a stipend, or other support under the federal Foster Grandparent Program (42 U.S.C. 66(II)(B)).**

SECTION 11. IC 12-17.2-3.5-1.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 1.7. As used in this chapter, "volunteer" or "volunteers" refers to an individual who, without compensation, provides services to a provider.**

SECTION 12. IC 12-17.2-3.5-4, AS AMENDED BY P.L.109-2002, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. A provider who:

(1) has been convicted of a:

(A) felony;

(B) misdemeanor related to the health or safety of a child;

(C) misdemeanor for operating a child care center without a license under IC 12-17.2-4-35; or

(D) misdemeanor for operating a child care home without a license under IC 12-17.2-5-35; or

(2) employs or otherwise allows an individual who has been convicted of a crime specified under subdivision (1) to:

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1 (A) serve as a caregiver to a child in the provider's care; or
 2 (B) reside with the provider, if the provider operates a
 3 child care program in the provider's home; or
 4 (3) fails to meet the requirements set forth in sections 5 through
 5 12.1 of this chapter;
 6 is ineligible to receive a voucher payment.

7 SECTION 13. IC 12-17.2-3.5-4.1, AS ADDED BY P.L.109-2002,
 8 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 9 JULY 1, 2003]: Sec. 4.1. (a) ~~As used in~~ This section "individual"
 10 ~~means:~~ **applies to the following:**

- 11 (1) A provider, **if the provider is an individual.**
 12 (2) If a provider ~~provides~~ **operates a child care program** in the
 13 provider's home, an individual who resides with the provider and
 14 who is at least eighteen (18) years of age. ~~or~~
 15 (3) An individual who:
 16 (A) is employed; **or**
 17 (B) **volunteers;**
 18 **as a caregiver** at the facility where a provider ~~provides~~ **operates**
 19 **a child care program.**

20 (b) If information ~~obtained~~ **used** by a ~~voucher agent~~ **the division**
 21 under IC 31-33-17-6(7) indicates that an individual **described in**
 22 **subsection (a)** has been named as an alleged perpetrator, the following
 23 are ineligible to receive a voucher payment:

- 24 (1) The individual.
 25 (2) A provider in whose home the individual resides if the
 26 provider ~~provides~~ **operates a child care program** in the
 27 provider's home.
 28 (3) A provider that:
 29 (A) employs the individual; **or**
 30 (B) **allows the individual to volunteer;**
 31 **as a caregiver** at the facility where the provider ~~provides~~
 32 **operates a child care program.**

33 SECTION 14. IC 12-17.2-3.5-5, AS AMENDED BY P.L.131-2002,
 34 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 35 JULY 1, 2003]: Sec. 5. A provider shall have:

- 36 (1) working smoke detectors that meet the standards adopted by
 37 rule for smoke detectors in licensed child care homes; and
 38 (2) **hot and cold** running water;
 39 in the area of the facility where the provider ~~provides~~ **operates a child**
 40 **care program.**

41 SECTION 15. IC 12-17.2-3.5-5.5 IS ADDED TO THE INDIANA
 42 CODE AS A **NEW** SECTION TO READ AS FOLLOWS

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[EFFECTIVE JULY 1, 2003]: **Sec. 5.5. A provider shall ensure that a child in the provider's care is continually supervised by a caregiver.**

SECTION 16. IC 12-17.2-3.5-6, AS ADDED BY P.L.247-2001, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6. (a) A provider who is an individual shall have an ~~annual~~ intradermal tuberculosis test **before the provider is eligible for a voucher payment.**

(b) A provider shall assure that ~~all individuals~~ **an individual** who ~~are~~ **is** at least eighteen (18) years of age and: ~~who:~~

(1) **who**, if the provider ~~provides~~ **operates a child care program** in the provider's home, ~~reside~~ **resides** with the provider; ~~and or~~

(2) ~~are:~~ **who:**

(A) is employed; or

(B) volunteers;

as a caregiver at the facility where the provider ~~provides~~ **operates a child care program;**
~~have has an annual~~ intradermal tuberculosis test **before the individual resides with the provider or is employed or allowed to volunteer as a caregiver.**

(c) A provider shall maintain documentation of an annual health assessment by a physician reflecting the results of symptom screening for tuberculosis for:

(1) the provider, if the provider is an individual; and

(2) an individual described in subsection (b);

who has a history of latent or active tuberculosis.

(d) A provider shall provide the results of the tests **and screening** required under ~~subsections (a) and (b)~~ **this section** to the ~~voucher agent:~~ **division upon request.**

SECTION 17. IC 12-17.2-3.5-7, AS ADDED BY P.L.247-2001, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. A provider shall have written plans for notifying parents regarding the following:

(1) Illness, serious injury, or death of the provider.

(2) Care in an emergency.

(3) Emergency evacuation.

The plan required under subdivision (3) must be posted in a conspicuous location in the ~~provider's~~ facility **where the provider operates a child care program.**

SECTION 18. IC 12-17.2-3.5-8, AS AMENDED BY P.L.47-2002, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 8. ~~A provider who is an individual shall maintain~~

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1 ~~annual certification in:~~

2 (1) ~~infant and child CPR; and~~

3 (2) ~~first aid.~~ (a) **At least one (1) adult individual who maintains**
 4 **annual certification in a course of cardiopulmonary resuscitation**
 5 **applicable to all age groups of children cared for by a provider**
 6 **shall be present at all times when a child is in the care of the**
 7 **provider.**

8 (b) **An individual who:**

9 (1) **is employed; or**

10 (2) **volunteers;**

11 **as a caregiver at a facility where a provider operates a child care**
 12 **program shall maintain current certification in first aid applicable**
 13 **to all age groups of children cared for by the provider.**

14 SECTION 19. IC 12-17.2-3.5-9, AS ADDED BY P.L.247-2001,
 15 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 16 JULY 1, 2003]: Sec. 9. A provider shall have at least one (1) working
 17 telephone in each facility where the provider ~~provides~~ **operates a child**
 18 **care program.**

19 SECTION 20. IC 12-17.2-3.5-10, AS AMENDED BY
 20 P.L.131-2002, SECTION 2, IS AMENDED TO READ AS FOLLOWS
 21 [EFFECTIVE JULY 1, 2003]: Sec. 10. (a) A facility where a provider
 22 ~~provides~~ **operates a child care program** must have two (2) exits that:

23 (1) do not require passage through a:

24 (A) garage; or

25 (B) storage area;

26 where hazardous materials are stored;

27 (2) are not windows;

28 (3) are on different sides of the facility;

29 (4) are not blocked; and

30 (5) are operable from the inside without the use of a key or any
 31 special knowledge.

32 (b) A provider shall:

33 (1) conduct monthly documented fire drills:

34 (A) in accordance with the rules of the fire prevention and
 35 building safety commission; and

36 (B) that include complete evacuation of all:

37 (i) children; and

38 (ii) adults who provide child care;

39 in the facility;

40 (2) maintain documentation of all fire drills conducted during the
 41 immediately preceding twelve (12) month period, including:

42 (A) the date and time of the fire drill;

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- 1 (B) the name of the individual who conducted the fire drill;
- 2 (C) the weather conditions at the time of the fire drill; and
- 3 (D) the amount of time required to fully evacuate the facility;
- 4 and
- 5 (3) maintain a two and one-half (2 1/2) pound or greater ABC
- 6 multiple purpose fire extinguisher:
- 7 (A) on each floor of the facility; and
- 8 (B) in the kitchen area of the facility;

9 in each facility where the provider ~~provides~~ **operates a child care**
 10 **program.**

11 SECTION 21. IC 12-17.2-3.5-11.1, AS ADDED BY P.L.121-2002,
 12 SECTION 1 AND P.L.131-2002, SECTION 3, IS AMENDED TO
 13 READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 11.1. (a)
 14 After December 31, 2002, a provider shall maintain and annually
 15 update documentation provided by the physician of each child who is
 16 cared for in a facility where the provider ~~provides~~ **operates a child care**
 17 **program** that the child has received complete age appropriate
 18 immunizations, including:

- 19 (1) conjugated pneumococcal vaccine; and
 - 20 (2) varicella vaccine or a demonstrated immunity to varicella.
- 21 The state department of health shall determine for each age level the
 22 immunizations that constitute complete age appropriate immunizations.
- 23 (b) A provider meets the requirement of subsection (a) if:
 - 24 (1) a child's parent:
 - 25 (A) objects to immunizations for religious reasons; and
 - 26 (B) provides documentation of the parent's objection; ~~or~~
 - 27 (2) the child's physician provides documentation of a medical
 - 28 reason the child should not be immunized; ~~or~~
 - 29 **(3) the child's physician provides documentation that the child**
 30 **is currently in the process of receiving complete age**
 31 **appropriate immunizations;**

32 and the provider maintains and annually updates the documentation
 33 provided by the parent or physician under this subsection.

34 SECTION 22. IC 12-17.2-3.5-12, AS AMENDED BY
 35 P.L.109-2002, SECTION 4, IS AMENDED TO READ AS FOLLOWS
 36 [EFFECTIVE JULY 1, 2003]: Sec. 12. (a) A provider shall, at the
 37 provider's ~~or individual's~~ expense, ~~provide to the voucher agent~~
 38 **maintain and make available to the division upon request** a copy of
 39 a limited criminal history for:

- 40 (1) the provider, **if the provider is an individual;**
- 41 (2) if the provider ~~provides~~ **operates a child care program** in the
 42 provider's home, any individual who resides with the provider and

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who is:

(A) at least eighteen (18) years of age; or

(B) less than eighteen (18) years of age but has previously been waived from juvenile court to adult court; and

(3) any individual who:

(A) is employed; or

(B) volunteers;

as a caregiver at the facility where the provider ~~provides~~
operates a child care program.

A provider shall apply for a limited criminal history for an individual described in subdivision (3) before the individual is employed or allowed to volunteer as a caregiver.

(b) In addition to the requirement under subsection (a), a provider shall report to the ~~voucher agent~~ **division** any:

(1) police investigations;

(2) arrests; and

(3) criminal convictions;

not listed on a limited criminal history ~~provided~~ **obtained** under subsection (a) regarding any of the persons listed in subsection (a).

(c) A provider that meets the other eligibility requirements of this chapter is temporarily eligible to receive voucher payments until the provider receives the limited criminal history required under subsection (a) from the state police department if:

(1) the provider:

(A) has applied for the limited criminal history required under subsection (a); and

(B) obtains a local criminal history for the individuals described in subsection (a) from each individual's local law enforcement agency **before the individual is employed or allowed to volunteer as a caregiver;** and

(2) the local criminal history does not reveal that an individual has been convicted of a:

(A) felony;

(B) misdemeanor related to the health or safety of a child;

(C) misdemeanor for operating a child care center without a license under IC 12-17.2-4-35; or

(D) misdemeanor for operating a child care home without a license under IC 12-17.2-5-35.

(d) A provider is ineligible to receive a voucher payment if an individual for whom a limited criminal history is required under this section has been convicted of a:

(1) felony;

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- (2) misdemeanor related to the health or safety of a child;
- (3) misdemeanor for operating a child care center without a license under IC 12-17.2-4-35; or
- (4) misdemeanor for operating a child care home without a license under IC 12-17.2-5-35;

until the individual is dismissed from employment **or volunteer service** at the facility **where the provider operates a child care program** or no longer resides with the provider.

(e) A provider shall maintain a written policy requiring an individual for whom a limited criminal history is required under this section to report any criminal convictions of the individual to the provider.

SECTION 23. IC 12-17.2-3.5-12.1, AS ADDED BY P.L.109-2002, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 12.1. (a) A provider shall at the provider's **or individual's** expense, ~~provide to the voucher agent~~ **maintain and make available to the division upon request** a copy of drug testing results for:

- (1) the provider, **if the provider is an individual;**
 - (2) if the provider ~~provides~~ **operates a child care program** in the provider's home, any individual who resides with the provider and who is at least eighteen (18) years of age; and
 - (3) an individual who:
 - (A) is employed; **or**
 - (B) **volunteers;**
- as a caregiver** at the facility where the provider ~~provides~~ **operates a child care program.**

The drug testing results for an individual described in subdivision (3) must be obtained before the individual is employed or allowed to volunteer as a caregiver.

(b) A provider that is not a child care ministry or a child care center shall maintain a written policy specifying the following:

- (1) That the:
 - (A) use of:
 - (i) tobacco;
 - (ii) alcohol; or
 - (iii) a potentially toxic substance in a manner other than the substance's intended purpose; and
 - (B) use or possession of an illegal substance;
- is prohibited in the facility where the provider operates a child care program when child care is being provided.**
- (2) That drug testing of individuals who serve as caregivers



will be:

(A) performed on a random basis, based on a protocol established or approved by the division; and

(B) required if an individual is suspected of noncompliance with the requirements specified under subdivision (1).

(c) A provider that is a child care ministry or a child care center shall maintain a written policy specifying the following:

(1) That the:

(A) use of:

(i) tobacco; or

(ii) a potentially toxic substance in a manner other than the substance's intended purpose; and

(B) use or possession of alcohol or an illegal substance; is prohibited in the facility where the provider operates a child care program when child care is being provided.

(2) That drug testing of individuals who serve as caregivers will be:

(A) performed on a random basis, based on a protocol established or approved by the division; and

(B) required if an individual is suspected of noncompliance with the requirements specified under subdivision (1).

(d) If:

(1) the drug testing results ~~provided~~ **obtained** under subsection (a), (b), or (c) indicate the presence of ~~an illegal controlled a~~ **prohibited substance described in subsection (b)(1)(A)(ii), (b)(1)(A)(iii), (b)(1)(B), (c)(1)(A)(ii), or (c)(1)(B); or**

(2) an individual refuses to submit to a drug test;

the provider is ineligible to receive a voucher payment **until the individual is suspended or terminated from employment or volunteer service at the facility or no longer resides with the provider.**

(e) A provider that suspends an individual described in subsection (d) shall maintain a written policy providing for reinstatement of the individual following rehabilitation and drug testing results that are negative for a prohibited substance described in subsection (b)(1)(A)(ii), (b)(1)(A)(iii), (b)(1)(B), (c)(1)(A)(ii), or (c)(1)(B).

(f) Drug testing results obtained under this section are confidential and may not be disclosed for any purpose other than the purpose described in this section.

SECTION 24. IC 12-17.2-3.5-15 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS



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[EFFECTIVE JULY 1, 2003]: **Sec. 15. The division shall adopt rules under IC 4-22-2 to implement this chapter.**

SECTION 25. IC 12-17.2-4-2, AS AMENDED BY P.L.47-2002, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. (a) A license may be issued only if a child care center is in compliance with food, health, safety, and sanitation standards as determined by the division under rules adopted by the division under IC 12-17.2-2-4 or in accordance with a variance or waiver approved by the division under IC 12-17.2-2-10.

(b) A license may be issued only if the child care center is in substantial compliance with the fire and life safety rules as determined by the state fire marshal under rules adopted by the division under IC 12-17.2-2-4 or in accordance with a variance or waiver approved by the division under IC 12-17.2-2-10.

(c) The division may issue a waiver or variance regarding a determination by the division or the state fire marshal under subsections (a) and (b).

(d) Except as provided in subsection (e), the division may issue a license under this chapter only if the child care center is staffed, when children are being cared for, by at least one (1) child care provider who is annually certified in a program on pediatric cardiopulmonary resuscitation and pediatric airway obstruction under the American Heart Association's Basic Life Support Course D or any other comparable course approved by the division.

(e) The requirement set forth in subsection (d) does not apply to a child care center that:

(1) serves only children who are at least thirteen (13) years of age and less than twenty-one (21) years of age; and

(2) has on duty, when the children are being cared for, at least one (1) child care provider who is annually certified in a program on cardiopulmonary resuscitation as required by the division.

(d) At least one (1) adult individual who maintains annual certification in a course of cardiopulmonary resuscitation applicable to all age groups of children cared for by the child care center shall be present at all times when a child is in the care of a child care center.

(e) An individual who:

(1) is employed; or

(2) volunteers;

as a caregiver at a child care center shall maintain current certification in first aid applicable to all age groups of children cared for by the child care center.

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(f) Upon request, the county office of family and children shall provide, within forty-eight (48) hours, excluding weekends and holidays, copies of substantiated noncompliances and other substantiated complaints filed with the division of family and children concerning a licensed child care center.

SECTION 26. IC 12-17.2-4-3.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 3.5. (a) A child care center shall, at the child care center's or individual's expense, maintain and make available to the division upon request a copy of drug testing results for an individual who:**

(1) is employed; or

(2) volunteers;

as a caregiver at the child care center. The drug testing results required under this subsection must be obtained before the individual is employed or allowed to volunteer as a caregiver.

(b) A child care center shall maintain a written policy specifying the following:

(1) That the:

(A) use of:

(i) tobacco; or

(ii) a potentially toxic substance in a manner other than the substance's intended purpose; and

(B) use or possession of alcohol or an illegal substance; is prohibited in the child care center when child care is being provided.

(2) That drug testing of individuals who serve as caregivers at the child care center will be:

(A) performed on a random basis, based on a protocol established or approved by the division; and

(B) required if an individual is suspected of noncompliance with the requirements specified under subdivision (1).

(c) If:

(1) the drug testing results obtained under subsection (a) or

(b) indicate the presence of a prohibited substance described in subsection (b)(1)(A)(ii) or (b)(1)(B); or

(2) an individual refuses to submit to a drug test;

the child care center shall immediately suspend or terminate the individual's employment or volunteer service.

(d) A child care center that suspends an individual described in subsection (c) shall maintain a written policy providing for reinstatement of the individual following rehabilitation and drug

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1 testing results that are negative for a prohibited substance
2 described in subsection (b)(1)(A)(ii) or (b)(1)(B).

3 (e) Drug testing results obtained under this section are
4 confidential and may not be disclosed for any purpose other than
5 the purpose described in this section.

6 (f) A child care center that does not comply with this section is
7 subject to:

8 (1) denial of an application for a license; or

9 (2) suspension or revocation of a license issued;

10 under this chapter.

11 SECTION 27. IC 12-17.2-4-17.5 IS ADDED TO THE INDIANA
12 CODE AS A NEW SECTION TO READ AS FOLLOWS
13 [EFFECTIVE JULY 1, 2003]: **Sec. 17.5. A licensee shall ensure that**
14 **a child in the licensee's care is continually supervised by a**
15 **caregiver.**

16 SECTION 28. IC 12-17.2-4-18.1, AS ADDED BY P.L.121-2002,
17 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
18 JULY 1, 2003]: Sec. 18.1. (a) After December 31, 2002, a licensee
19 shall maintain and annually update documentation provided by the
20 physician of each child who is cared for in a child care center where the
21 licensee provides child care that the child has received complete age
22 appropriate immunizations, including:

23 (1) conjugated pneumococcal vaccine; and

24 (2) varicella vaccine or a demonstrated immunity to varicella.

25 The state department of health shall determine for each age level the
26 immunizations that constitute complete age appropriate immunizations.

27 (b) A licensee meets the requirement of subsection (a) if:

28 (1) a child's parent:

29 (A) objects to immunizations for religious reasons; and

30 (B) provides documentation of the parent's objection; **or**

31 (2) the child's physician provides documentation of a medical
32 reason the child should not be immunized; **or**

33 **(3) the child's physician provides documentation that the child**
34 **is currently in the process of receiving complete age**
35 **appropriate immunizations;**

36 and the licensee maintains and annually updates the documentation
37 provided by the parent or physician under this subsection.

38 SECTION 29. IC 12-17.2-5-3.5 IS ADDED TO THE INDIANA
39 CODE AS A NEW SECTION TO READ AS FOLLOWS
40 [EFFECTIVE JULY 1, 2003]: **Sec. 3.5. (a) A child care home shall,**
41 **at the child care home's or individual's expense, maintain and**
42 **make available to the division upon request a copy of drug testing**

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1 results for:

- 2 (1) the provider;
 3 (2) an individual who resides with the provider and who is at
 4 least eighteen (18) years of age; and
 5 (3) an individual who:
 6 (A) is employed; or
 7 (B) volunteers;
 8 as a caregiver at the child care home.

9 The drug testing results for an individual described in subdivision
 10 (3) must be obtained before the individual is employed or allowed
 11 to volunteer as a caregiver.

12 (b) A child care home shall maintain a written policy specifying
 13 the following:

14 (1) That the:

15 (A) use of:

- 16 (i) tobacco;
 17 (ii) alcohol; or
 18 (iii) a potentially toxic substance in a manner other than
 19 the substance's intended purpose; and

20 (B) use or possession of an illegal substance;
 21 is prohibited in the child care home when child care is being
 22 provided.

23 (2) That drug testing of individuals who serve as caregivers at
 24 the child care home will be:

25 (A) performed on a random basis, based on a protocol
 26 established or approved by the division; and

27 (B) required if an individual is suspected of noncompliance
 28 with the requirements specified under subdivision (1).

29 (c) If:

- 30 (1) the drug testing results obtained under subsection (a) or
 31 (b) indicate the presence of a prohibited substance described
 32 in subsection (b)(1)(A)(ii), (b)(1)(A)(iii), or (b)(1)(B); or

33 (2) an individual refuses to submit to a drug test;

34 the child care home shall immediately suspend or terminate the
 35 individual's employment or volunteer service.

36 (d) A child care home that suspends an individual described in
 37 subsection (c) shall maintain a written policy providing for
 38 reinstatement of the individual following rehabilitation and drug
 39 testing results that are negative for a prohibited substance
 40 described in subsection (b)(1)(A)(ii), (b)(1)(A)(iii), or (b)(1)(B).

41 (e) Drug testing results obtained under this section are
 42 confidential and may not be disclosed for any purpose other than

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the purpose described in this section.

(f) A child care home that does not comply with this section is subject to:

(1) denial of an application for a license; or

(2) suspension or revocation of a license issued;

under this chapter.

SECTION 30. IC 12-17.2-5-17.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 17.5. A licensee shall ensure that a child in the licensee's care is continually supervised by a caregiver.**

SECTION 31. IC 12-17.2-5-18.1, AS ADDED BY P.L.121-2002, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 18.1. (a)** After December 31, 2002, a licensee shall maintain and annually update documentation provided by the physician of each child who is cared for in a child care home where the licensee provides child care that the child has received complete age appropriate immunizations, including:

(1) conjugated pneumococcal vaccine; and

(2) varicella vaccine or a demonstrated immunity to varicella.

The state department of health shall determine for each age level the immunizations that constitute complete age appropriate immunizations.

(b) A licensee meets the requirement of subsection (a) if:

(1) a child's parent:

(A) objects to immunizations for religious reasons; and

(B) provides documentation of the parent's objection; ~~or~~

(2) the child's physician provides documentation of a medical reason the child should not be immunized; **or**

(3) the child's physician provides documentation that the child is currently in the process of receiving complete age appropriate immunizations;

and the licensee maintains and annually updates the documentation provided by the parent or physician under this subsection.

SECTION 32. IC 12-17.2-5-18.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 18.2. (a) At least one (1) adult individual who maintains annual certification in a course of cardiopulmonary resuscitation applicable to all age groups of children cared for by the child care home shall be present at all times when a child is in the care of a child care home.**

(b) An individual who:

(1) is employed; or



1 **(2) volunteers;**
 2 **as a caregiver at a child care home shall maintain current**
 3 **certification in first aid applicable to all age groups of children**
 4 **cared for by the child care home.**

5 SECTION 33. IC 31-33-17-6, AS AMENDED BY P.L.109-2002,
 6 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 7 JULY 1, 2003]: Sec. 6. Upon request, a person or an organization may
 8 have access to information contained in the registry as follows:

9 (1) A law enforcement agency or local child protective service
 10 may have access to a substantiated report.

11 (2) A person may have access to information consisting of an
 12 identifiable notation of a conviction arising out of a report of child
 13 abuse or neglect.

14 (3) Upon submitting written verification of an application for
 15 employment or a consent for release of information signed by a
 16 child care provider, a person or an agency may obtain the
 17 following information contained in the child abuse registry
 18 regarding an individual who has applied for employment or
 19 volunteered for services in a capacity that would place the
 20 individual in a position of trust with children less than eighteen
 21 (18) years of age or regarding a child care provider who is
 22 providing or may provide child care for the person's child:

23 (A) Whether a child was found by a court to be a child in need
 24 of services based on a report of child abuse or neglect naming
 25 the applicant, volunteer, or child care provider as the alleged
 26 perpetrator.

27 (B) Whether criminal charges were filed against the applicant,
 28 volunteer, or child care provider based on a report of child
 29 abuse or neglect naming the applicant, volunteer, or child care
 30 provider as the alleged perpetrator.

31 (C) Whether a court has issued an arrest warrant for the
 32 applicant, volunteer, or child care provider based on a report
 33 of child abuse or neglect in which the applicant, volunteer, or
 34 child care provider is named as the alleged perpetrator.

35 (4) A person may have access to whatever information is
 36 contained in the registry pertaining to the person, with protection
 37 for the identity of:

38 (A) the person who reports the alleged child abuse or neglect;
 39 and

40 (B) any other appropriate person.

41 (5) A person or an agency to whom child abuse and neglect
 42 reports are available under IC 31-33-18 may also have access to

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information contained in the registry.

(6) If a child care provider provides child care in the provider's home, upon submitting a consent for release of information signed by an individual who is at least eighteen (18) years of age, who resides with the child care provider, and who may have direct contact with children for whom the provider provides child care, a person may obtain the following information contained in the child abuse registry regarding the individual:

(A) Whether a child was found by a court to be a child in need of services based on a report of child abuse or neglect naming the individual as the alleged perpetrator.

(B) Whether criminal charges were filed against the individual based on a report of child abuse or neglect naming the individual as the alleged perpetrator.

(C) Whether a court has issued an arrest warrant for the individual based on a report of child abuse or neglect in which the individual is named as the alleged perpetrator.

(7) ~~A voucher agent (as defined in IC 12-17.2-3.5-2)~~ **The division of family and children** may ~~have access to use~~ the following information contained in the registry regarding an individual ~~(as defined in IC 12-17.2-3.5-4.1)~~ **described in IC 12-17.2-3.5-4.1(a)** for purposes of determining the eligibility of a child care provider to receive a voucher payment (as defined in IC 12-17.2-3.5-3):

(A) Whether a child has been found by a court to be a child in need of services based on a report of child abuse or neglect naming the individual as the alleged perpetrator.

(B) Whether criminal charges have been filed against the individual based on a report of child abuse or neglect naming the individual as the alleged perpetrator.

(C) Whether a court has issued an arrest warrant for the individual based on a report of child abuse or neglect in which the individual is named as the alleged perpetrator.

~~The voucher agent shall~~ **division of family and children** may not disclose information ~~obtained~~ **used in connection with the division's activities** under this subdivision.

SECTION 34. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2003]: IC 12-7-2-199.3; IC 12-17.2-3.5-2.

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